

WAC 67-25-503 Vocational rehabilitation services—Limitations on use of subminimum wage. (1) Section 511 of WIOA Title IV limits the use of subminimum wage. Individuals age twenty-four or younger may not begin work that pays a subminimum wage (less than federal minimum wage) unless the following actions have been completed:

(a) The individual received preemployment transition services or transition services under IDEA; and

(b) The individual applied for VR services and has been found ineligible for services; or

(c) The individual has been determined eligible for VR services but has not been successful towards achieving a specific planned competitive integrated employment goal, with or without supports and/or customization, and client record of services closed; and

(d) The individual has been provided career counseling and information and referral to other resources designed to assist the person in attaining competitive integrated employment in a manner that:

(i) Is understandable to the individual with a disability;

(ii) Facilitates independent decision making and informed choice as the individual makes decisions regarding opportunities for competitive integrated employment and career advancement, particularly with respect to supported employment, including customized employment (WAC 67-25-183);

(iii) The career counseling and information and referral services provided under this section may include benefits counseling, particularly with regard to the interplay between earned income and income-based financial, medical, and other benefits.

(2) When an individual has refused to participate in an activity required by this section, documentation must be provided to the individual within ten calendar days of the individual's refusal to participate.

(a) Such documentation must, at a minimum, contain the:

(i) Name of the individual;

(ii) Description of the refusal and the reason for such refusal;

(iii) Signature of the individual or, as applicable, the individual's representative;

(iv) Signature of the department personnel documenting the individual's refusal;

(v) Date of signatures; and

(vi) Date and method (e.g., hand delivered, faxed, mailed, emailed, etc.) by which documentation was transmitted to the individual.

(b) The department must retain a copy of all documentation required by this part in a manner consistent with the department's case management system and the requirements of WAC 67-25-073.

(3) Upon a referral by an entity that has fewer than fifteen employees of an individual with a disability who is employed at a subminimum wage by that entity, DSB will also inform the individual within thirty calendar days of the referral by the entity, and of self-advocacy, self-determination, and peer mentoring training opportunities available in the community.

(4) Nothing in this section will be construed as requiring the department to provide the services required by this section directly. The department may contract with other entities, i.e., other public and private service providers, as appropriate, to fulfill the requirements of this section. The contractor providing the services on behalf of the designated state unit may not be an entity holding a special

wage certificate under Section 14(c) of the Fair Labor Standards Act (29 U.S.C. 214(c)).

[Statutory Authority: P.L. 113-128 and 34 C.F.R. Part 361. WSR 18-14-101, § 67-25-503, filed 7/3/18, effective 8/3/18.]